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PATENTS
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellants : Kenneth F. Carpenter, Jr. et al.
Application No. : 09/773,883 Confirmation No. : 7944
Filed : January 31, 2001
For : INTERACTIVE TELEVISION APPLICATION
WITH NAVIGABLE CELLS AND REGIONS
Art Unit : 2623
Examiner : Scott E. Beliveau

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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Sir:

Appellants are filing this Appeal Brief in support of the April 18, 2007 Notice of Appeal from the rejection of claims 66-91 in the Office Action dated October 18, 2006.

The Director is hereby authorized to charge \$500.00 to Deposit Account No. 06-1075 (Order No. 003597-0180) in payment of the filing fee required under 37 C.F.R. § 41.20(b)(2). The Director is also hereby authorized to charge any additional fees that may be due in connection with this Appeal Brief, or credit any overpayment of the same, to Deposit Account No. 06-1075 (Order No. 003597-0180). A separate Authorization to Charge Deposit Account is enclosed for these purposes (in duplicate).

In view of the arguments and authorities set forth below, the Board should find the rejection of claims 66-91 to be in error, and the Board should reverse the rejection.

This Brief has the following appendices:

Claims Appendix

Appendix A: Copy of claims 66-91 involved in this appeal;

Evidence Appendices

Appendix B: Copy of the Final Office Action dated October 18, 2006;

Appendix C: Copy of the Reply to Final Office Action dated January 18, 2007;

Appendix D: Copy of the Advisory Action dated February 7, 2007;

Appendix E: Copy of the Pre-Appeal Brief Request for Review dated April 18, 2007;

Appendix F: Copy of Eldering et al. U.S. Patent App. Pub. No. 2002/0026638 A1 (hereinafter "Eldering");

Appendix G: Copy of "IBM Technical Disclosure Bulletin" (hereinafter "IBM Bulletin");

Appendix H: Copy of Matthews III U.S. Patent No. 5,815,145 (hereinafter "Matthews '145"); and

Appendix I: Copy of Matthews III U.S. Patent No. 6,025,837 (hereinafter "Matthews '837");

Related Proceedings Appendix

None.

(i) Real Party in Interest

Appellants respectfully advise the Board that the real party in interest in the above-identified patent application is United Video Properties, Inc., a corporation organized and existing under the laws of the State of Delaware, and having an office and place of business at 6922 Hollywood Boulevard, Los Angeles, CA 90028, which is the assignee of this application.

(ii) Related Appeals and Interferences

Appellants respectfully advise the Board that there are no other appeals or interferences known to appellants, their legal representative, or their assignee that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(iii) Status of Claims

Claims 66-91 are finally rejected in this application and are on appeal.

(iv) Status of Amendments

Appellants have not submitted any amendments pursuant to 37 C.F.R. § 1.116 or in reply to the October 18, 2006 final Office Action (hereinafter "Office Action"), from which this appeal is being sought.

(v) Summary of Claimed Subject Matter

Appellants' independent claims 66 and 76 are directed toward a method and system for using an

interactive application on a display screen to access content. See, e.g., specification, page 3, lines 23-21 and FIGS. 3 and 4. At least two cells are provided on the display screen. See, e.g., specification, page 2, line 32 - page 3, line 2 and FIG. 3. Each of the at least two cells is operable to be associated with a television channel and to display, within the cell, video content being broadcast on the television channel. See, e.g., specification, page 3, lines 23-31 and FIG. 3. An indicator is displayed that notifies the user of the availability of interactive content associated with the television channel associated with the cell. See, e.g., specification, page 47, lines 19-32 and FIG. 21. The at least two cells are grouped into a region, and a region highlight is displayed that surrounds the cells in the region. See, e.g., specification, page 3, lines 3-14 and FIGS. 7D and 7E. A user is allowed to navigate the region highlight, wherein no cell highlight appears on the display while the user is navigating the region highlight. See, e.g., specification, page 24, line 7 - page 26, line 25 and FIGS. 7A, 7B, 7C, 7D, and 7E. In response to a user selection of a region surrounded by the region highlight, a cell highlight is displayed around a cell in the selected region. See, e.g., specification, page 28, line 16 - page 29, line 10 and FIG. 9B. The user is then allowed to navigate the cell highlight to each of the cells in the selected region, wherein only the cell that is surrounded by the cell highlight is in focus. See, e.g., specification, page 3, lines 15-31 and FIGS. 5A and 5B. Finally, the user is allowed to access the interactive content associated with the television channel for a cell for which an indicator is displayed and which is in focus.

See, e.g., specification, page 47, line 19 - page 48, line 17.

(vi) Ground of Rejection to be Reviewed on Appeal

The grounds of rejection to be reviewed on this appeal are:

a) the final rejection of claims 66-68, 76-78, 86, 87, 89, and 90 under 35 U.S.C. § 103(a) as being unpatentable over Eldering in view of the IBM Bulletin, in further view of Matthews '145, and in further view of Matthews '837;

b) the final rejection of claims 69-71, 79-81, 88, and 91 under 35 U.S.C. § 103(a) as being unpatentable over Eldering in view of the IBM Bulletin, in further view of Matthews '145, in further view of Matthews '837, and in further view of Lawler et al. U.S. Patent No. 5,585,838 (hereinafter "Lawler"); and

c) the final rejection of claims 72-75 and 82-85 under 35 U.S.C. § 103(a) as being unpatentable over Eldering in view of the IBM Bulletin, in further view of Matthews '145, in further view of Matthews '837, and in further view of Goldschmidt Iki et al. U.S. Patent No. 6,295,646 (hereinafter "Goldschmidt Iki").

(vii) Argument

Appellants independent claims 66 and 76 are directed toward a novel method and system, respectively, for navigating a display screen by region. The display screen includes at least two cells, and each cell is configured to display video content being broadcast on a television channel associated with the cell. At least two

of the cells are grouped into a region, and a region highlight is displayed around the grouped cells. The user is then allowed to navigate the region highlight without a cell highlight appearing on the display. If the user selects a region surrounded by the region highlight, a cell highlight is displayed around a cell within the selected region. The user may then navigate the cell highlight to each of the cells in the selected region. The cell that is surrounded by the cell highlight is in focus. The user may then access interactive content associated with a television channel associated with the cell that is in focus and for which an indicator is displayed.

Appellants' claimed invention is an improvement over traditional cell-based navigation techniques that require a user to navigate a display screen on a cell-by-cell or element-by-element basis. By grouping cells into regions and providing a region highlight, appellants' claimed invention facilitates simple and efficient navigation between and within grouped cells on a display screen. Appellants claimed invention also allows seamless access to interactive content associated with a television channel associated with a cell.

The Office Action contends that the combination of Eldering, the IBM Bulletin, Matthews '145, and Matthews '837 shows all of appellants' claimed features recited in independent claims 66 and 76. The Office Action also contends that it would have been obvious for one skilled in the art to combine the relevant teachings of Eldering, the IBM Bulletin, Matthews '145, and Matthews '837 to arrive at appellants' claimed invention. See Office Action, pages 4-14. Appellants respectfully disagree and request that the Board overturn the rejection

because the four references, even when combined, do not show or suggest all of appellants' claimed features recited in each of independent claims 66 and 76. Moreover, even if the four references did show all of appellants' claimed features, there could be no possible motivation for one skilled in the art to combine the inapposite teachings cited in the Office Action to arrive at appellants' claimed invention.

A. The Combination of Eldering and the IBM Bulletin Would Not Result in a Navigable Region Highlight Wherein No Cell Highlight Appears on the Display While the User is Navigating the Region Highlight

It is well-established that "to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art" (MPEP § 2143.03); *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). As described below, the § 103(a) rejection should be overturned at least because the Examiner's combination fails to disclose the claimed feature of "allowing a user to navigate a region highlight to the region, wherein no cell highlight appears on the display while the user is navigating the region highlight," as recited by each of independent claims 66 and 76.

Eldering describes an electronic program guide (EPG) that supports targeted advertisement insertion. See Eldering, ¶ 0021. Eldering mentions that "in certain embodiments, the advertisements and the guide portion of the EPG may be combined to form a single HTML file" (Eldering, ¶ 0040). Eldering also mentions that "the guide portion and the advertisements may each comprise different frames in a frameset." *Id.* This is the only disclosure in Eldering of any groupings of displayed elements.

The IBM Bulletin consists of a couple of paragraphs pertaining to website frames. The IBM Bulletin mentions that one solution to the problem of not knowing which frame of a website has input focus is to provide "a highlight border around the frame which has focus" (IBM Bulletin, page 2). The IBM Bulletin is largely silent as to how the highlight border would be implemented or incorporated into an actual website. See generally IBM Bulletin.

The Office Action admits that Eldering "is generally silent with respect to the particular composition and ability to navigate between regions" of a display screen (Office Action, page 4). Nevertheless, the Office Action contends that the combination of Eldering and the IBM Bulletin produces a navigable region highlight. See Office Action, page 5. Appellants respectfully disagree.

Eldering merely states that different portions of the electronic program guide (EPG) screen may "comprise different frames in a frameset" (Eldering, ¶ 0040). Eldering is silent as to how a user navigates among the different windows or even if the individual windows are selectable or navigable by a user in any way. See Eldering, ¶¶ 0032, 0040-0044. As such, Eldering cannot possibly show or suggest navigation using any type of highlight. Moreover, the IBM Bulletin makes no mention of navigation using the highlight border. All the IBM Bulletin describes is using a highlight to indicate which frame in a website has input focus. The IBM Bulletin mentions that providing a highlight border may be useful in determining which frame will be printed if the user selects a "print frame" option. See generally IBM Bulletin. There

is no mention in the IBM Bulletin, however, of navigating the highlight border to other frames.

In order to accept the Office Action's position, Eldering must initially be modified to make Eldering's windows navigable. Only then can the Examiner even begin reasoning that a frame highlight is needed. Incorporating the IBM Bulletin's highlight border into Eldering would just provide the user with a highlight around the frame in Eldering's FIG. 1 display screen that has input focus. The references are completely devoid of any ability to navigate the highlight by grouped cells or regions.

Therefore, contrary to the Office Action's contention, neither Eldering nor the IBM Bulletin, alone or in combination, show or suggest "allowing a user to navigate a region highlight to the region, wherein no cell highlight appears on the display while the user is navigating the region highlight," as recited by each of independent claims 66 and 76. At best, the combination results in an EPG screen with a highlight border around the frame with input focus. There is no suggestion of using this newly added highlight border to navigate between regions of grouped cells. To be sure, using a highlight border to indicate which frame has input focus and navigating using a region highlight are quite different.

At least because appellants' claimed feature of "allowing a user to navigate a region highlight to the region, wherein no cell highlight appears on the display while the user is navigating the region highlight," is not shown or suggested by the references, appellants respectfully request that the Board overturn the § 103(a) rejection of independent claims 66 and 76. The rejection of dependent claims 67-75 and 77-91, which include all the

limitations of one of independent claims 66 or 76, should be overturned for at least the same reason.

B. The Examiner's Motivation to Combine
 The References in Wholly Inadequate

The Office Action suggests that it would have been obvious to incorporate the IBM Bulletin's highlight border into Eldering in order to "provid[e] feedback to the user as to which frame/region within the interface has input focus" (*Office Action*, page 5). Although this motivation may be relevant to adding a highlight border, it is wholly inadequate to motivate one skilled in the art to use this newly added highlight border to navigate by grouped cells. As described above, none of the references cited in the Office Action mentions or reasonably suggests navigating by region using a region highlight, and the Office Action's motivation does not address navigation at all.

The Office Action also admits that the combination of Eldering and the IBM Bulletin "is silent with respect to further details" recited in appellants' independent claims 66 and 76. See *Office Action*, page 5. Namely, the Office Action admits that the combination of Eldering and the IBM Bulletin does not show or suggest at least two cells operable to display, within the cell, video content being broadcast on a television channel associated with the cell. *Id.* However, the Office Action contends that Matthews '145 shows such an arrangement and that it would have been obvious to combine Eldering, as modified by the IBM Bulletin, with Matthews '145 "for the purpose of taking advantage of the graphics-based nature of IT systems in association with the presentation of program guide services." See *Office Action*, page 6. Initially,

appellants submit that this motivation is far too broad and conclusory to motivate anyone skilled in the art to modify the references. Moreover, the references teach away from being combined in such a manner.

Matthews '145 describes a system for displaying a multi-frame video segment relating to programming available on selected channels during a selected programming period. See Matthew's '145, Abstract. A series of video programming tiles are arranged in a display screen. See Matthew's '145, col. 4, lines 44-61 and FIG. 4. A user may navigate between or select one of the displayed programming tiles using a cursor and a control keypad. See Matthew's '145, col. 4, lines 62-64 and col. 5, lines 6-23.

Matthews '145 approaches the problem of navigable regions in a completely different way than appellants' claimed invention -- a way that negates the need for any region highlight. Namely, as shown in FIG. 6, a user in Matthews '145 may navigate a cursor within a programming tile strip (i.e., programming guide space 150 of FIG. 6) to cause "screen 98 to shift leftward in the programming guide space" (Matthews '145, col. 10, ll. 11-25). Thus, screen 98 of FIG. 4 only displays one region (e.g., of six tiles) of a larger virtual display at a time -- the region selected by the cursor in programming guide space 150. Since only one region is displayed in screen 98 at a time, there would be no reason for one skilled in the art to incorporate a region highlight to navigate between regions in the display screen. Matthews '145 already provides a solution for navigating and selecting a grouping of programming tiles for display using the programming tile strip. Therefore, the need for a region highlight is completely eliminated.

As such, appellants respectfully submit that there could be no possible motivation to combine the references in the manner suggested in the Office Action. The region highlight would serve no purpose nor add any functionality that does not already exist in the references. Rather, appellants have recited a unique approach for grouping cells into regions and navigating between the regions using a region highlight in independent claims 66 and 76.

For this independent reason, appellants submit that independent claims 66 and 76 are not obvious in view of the cited references. Dependent claims 67-75 and 77-91, which include all the limitations of one of independent claims 66 or 76, are not obvious for at least the same reason.

C. Conclusion

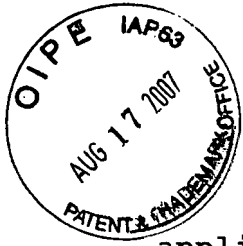
For the foregoing reasons, appellants submit that the cited references, alone or in combination, do not render any of appellants' claims 66-91 obvious. The Office Action's rejection of these claims should, therefore, be reversed.

Respectfully submitted,



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(viii) Claims Appendix



CLAIMS APPENDIX A
CLAIMS ON APPEAL

66. A method for using an interactive application on a display screen to access content, the method comprising:

providing at least two cells on a display screen, wherein each of the at least two cells is operable to be associated with a television channel and is operable to display, within the cell, video content being broadcast on the television channel;

for each of, at least one of the cells that is associated with a television channel, displaying an indicator which notifies a user of the availability of interactive content associated with the television channel associated with the cell;

grouping the at least two cells into a region;

displaying a region highlight that surrounds the cells in the region;

allowing a user to navigate a region highlight to the region, wherein no cell highlight appears on the display while the user is navigating the region highlight; and

in response to a user selection of the region surrounded by the region highlight:

displaying a cell highlight around a cell in the selected region;

allowing the user to navigate the cell highlight to each of the cells in the selected region,

wherein only the cell that is surrounded by the cell highlight is in focus; and

for a cell for which an indicator is displayed and which is in focus, allowing the user to access the interactive content associated with the television channel associated with the cell.

67. The method of claim 66, wherein the indicator is displayed in at least one of: the cell having an associated television channel for which interactive content is available, and an area in close proximity to that cell.

68. The method of claim 67, further comprising:
for each cell that is associated with a television channel and which is not in focus, displaying in the cell a graphical brandmark of the television channel associated with the cell; and

if the cell in focus is associated with a television channel, displaying in the cell video content being broadcast on the television channel.

69. The method of claim 68, further comprising:
for each of at least one of the cells that is associated with a television channel, displaying an option indicator which notifies a user of at least one option corresponding to the television channel associated with the cell; and

for a cell for which an option indicator is displayed and which is in focus, allowing a user to select one of the at least one option.

70. The method of claim 69, wherein the television channel is a video on demand channel, and wherein the at least one option includes at least one of: ordering the video on demand channel, and placing an order for a program from the video on demand channel.

71. The method of claim 69, wherein the at least one option includes at least one of: recording a current program on the television channel, setting a reminder for a future program on the television channel, and designating the television channel as a favorite channel.

72. The method of claim 68, wherein at least one of the cells is operable to display Web content within the cell.

73. The method of claim 68, wherein at least one of the cells is associated with a television channel and at least one of the cells is associated with a non-television entity.

74. The method of claim 73, further comprising:
receiving a signal indicating selection of the cell in focus; and

if the cell in focus is associated with a television channel, displaying, in full screen on the display screen, video content being broadcast on the television channel.

75. The method of claim 73, further comprising:
allowing a user to disassociate a television channel from a cell; and

allowing a user to associate a television channel with a cell.

76. A system for accessing content through an interactive application, the system comprising:

a display screen;

a communication link configured to access content;

a processor configured to:

instruct the display screen to display at least two cells that are each operable to be associated with a television channel, wherein each of the cells is operable to display, within the cell, video content being broadcast on the television channel;

for each of at least one of the cells that is associated with a television channel, instruct the display screen to display an indicator which notifies a user of the availability of interactive content associated with the television channel associated with the cell;

group the at least two cells into a region;

instruct the display screen to display a region highlight that surrounds the cells in the region;

allow a user to navigate a region highlight to the region, wherein no cell highlight appears on the display screen while the user is navigating the region highlight; and

in response to a user selection of the region surrounded by the region highlight:

instruct the display screen to display a cell highlight around a cell in the selected region;

allow the user to navigate the cell highlight to each of the cells in the selected region, wherein only the cell that is surrounded by the cell highlight is in focus; and

for a cell for which an indicator is displayed and which is in focus, allowing the user to access the interactive content associated with the television channel associated with the cell.

77. The system of claim 76, wherein the processor is configured to instruct the display screen to display the indicator in at least one of: the cell having an associated television channel for which interactive content is available, and an area in close proximity to that cell.

78. The system of claim 77, wherein the processor is configured to instruct the display screen to:

for each cell that is associated with a television channel and which is not in focus, display in the cell a graphical brandmark of the television channel associated with the cell; and

if the cell in focus is associated with a television channel, display in the cell video content being broadcast on the television channel.

79. The system of claim 78, wherein the processor is configured to:

for each of at least one of the cells that is associated with a television channel, instruct the display screen to display an option indicator which notifies a user of at least one option corresponding to the television channel; and

for a cell for which an option indicator is displayed and which is in focus, allow a user to select one of the at least one option.

80. The system of claim 79, wherein the television channel is a video on demand channel, and wherein the at least one option includes at least one of: ordering the video on demand channel, and placing an order for a program from the video on demand channel.

81. The system of claim 79, wherein the at least one option includes at least one of: recording a current program on the television channel, setting a reminder for a future program on the television channel, and designating the television channel as a favorite channel.

82. The system of claim 78, wherein at least one of the cells is operable to display Web content within the cell.

83. The system of claim 78, wherein at least one of the cells is associated with a television channel and at least one of the cells is associated with a non-television entity.

84. The system of claim 83, further comprising a user input, and wherein the processor is configured to:

receive a signal from the user input indicating selection of the cell in focus; and

if the cell in focus is associated with a television channel, instruct the display screen to display, in full screen, video content being broadcast on the television channel.

85. The system of claim 83, wherein the processor is configured to:

- allow a user to disassociate a television channel from a cell; and
- allow a user to associate a television channel with a cell.

86. The method of claim 66, wherein the region includes at least one cell associated with a television channel, the method further comprising:

- providing a second region on the display screen that includes the at least one cell associated with a non-television entity.

87. The method of claim 66, further comprising:

- providing at least one advertisement cell on the display screen, wherein the advertisement cell is distinct from the at least two cells;
- grouping the at least one advertisement cell into a second region; and
- allowing a user to navigate the region highlight to the second region.

88. The method of claim 69, wherein at least one of the indicator and the option indicator is a generic icon.

89. The system of claim 76, wherein the region includes at least one cell associated with a television channel, wherein the processor is further configured to:

instruct the display screen to display second region that includes the at least one cell associated with a non-television entity.

90. The system of claim 76, wherein the processor is further configured to:

instruct the display screen to display at least one advertisement cell, within the at least one advertisement cell is distinct from the at least two cells;

group the at least one advertisement cell into a second region;

allow the user to navigate the region highlight to the second region.

91. The system of claim 79, wherein at least one of the indicator and the option indicator is a generic icon.

(ix) Evidence Appendix

EVIDENCE APPENDIX B
COPY OF FINAL OFFICE ACTION
DATED OCTOBER 18, 2006



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,883	01/31/2001	Kenneth F. Carpenter JR.	UV-180	7944

1473 7590 10/18/2006

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EXAMINER

BELIVEAU, SCOTT E

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Please find below and/or attached an Office communication concerning this application or proceeding.

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File No.: UV-180
Action Desc: Resp to final OIA; notice of appeal
Due Date: Jan 18, 2007 ; Apr 18, 2007
By [Signature]

Office Action Summary

Application No.

09/773,883

Applicant(s)

CARPENTER ET AL.

Examiner

Scott Beliveau

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 66-91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 66-91 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e). The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 60/179,523, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. The '523 filing discloses "providing at least two cells on a display screen, wherein each of the at least two cells is operable to be associated with a television channel and is operable to display within the cell, video content being broadcast on the television channel". The filing, however, does not disclose that the particular cells further comprise an "indicator which notifies a user of the availability of interactive content associated with the television channel associated with the cell".

The disclosure of the prior-filed application, Application No. 60/179,552, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. The '552 filing discloses the missing

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element of the '523 filling of "displaying an indicator which notifies a user of the availability of interactive content associated with the television channel associated with the cell" and "for a cell in which an indicator I displayed and which is in focus, allowing a user to access the interactive content associated with the television channel associated with the cell". However, the '552 filling does not "providing at least two cells on a display screen, wherein each of the at least two cells is operable to be associated with a television channel and is operable to display within the cell, video content being broadcast on the television channel". Neither prior-filling contemplates or incorporates disclosure of the other. Accordingly, the application shall be examined on the basis of its filling date or 31 January 2001.

Response to Arguments

2. Applicant's arguments with respect to claims 66-91 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent

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any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 66-68, 76-78, 86, 87, 89, and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering et al. (US Pub No. 2002/0026638 A1), in view of the "IBM Technical Disclosure Bulletin" (of record), in view of Matthews, III (US Pat No. 5,815,145), and in further view of Matthews, III et al. (US Pat No. 6,025,837).

Regarding claim 66, the Eldering et al. reference discloses a "method for using an interactive application" such as an EPG "on a display screen top access content" (Figure 1). In particular, as illustrated in Figure 1, the EPG comprises a region associated with advertisements [103/105/107] comprising a number of 'cells' and a region corresponding to program/channel listings [101] (Para. [0032]). The reference teaches that the particular regions, as would be understood by persons of skill in the art of Web page design and implementation, are delineated by frames (Para. [0040]). Accordingly, the reference generally provides for an EPG comprising a number of regions (ex. advertising region [103/105/107] and program listing region [101]) delineated by frames, but is generally silent with respect to the particular composition and ability to navigate between regions.

In an analogous art related to interactive television and in particular problems associated with display interfaces, the IBM article discloses that it is desirable to "display a region highlight that surrounds . . . [a] region" of a web-page and to "allow [a] user to navigate a region highlight to the region, wherein no cell highlight appears on the display while the user

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is navigating the region highlight” given that the reference merely teaches the particular highlighting of a particular frame upon which has input focus. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Eldering et al. EPG interface [100] so to “display a region highlight that surrounds . . . [a] region” such as that associated with either the advertisements [103/105/107] or the program/channel listings [101] and to “allow [a] user to navigate a region highlight to the region, wherein no cell highlight appears on the display while the user is navigating the region highlight” for the purpose of providing feedback to the user as to which frame/region within the interface has input focus. Subsequently, the combined references provide for an electronic programming guide comprising a number of frames/regions in which upon navigating to a particular region a highlight border is provided around the frame that has focus in order to show the boundaries of the frame. The combination, however, is silent with respect to further details associated with the program/channel listings [101] as claimed.

In an analogous art pertaining to interactive user interfaces and in particular electronic programming guides the Matthews, III reference discloses a “method for using an interactive application” or program guide on a “display screen” [18] to access content. As illustrated in Figure 4, the method comprises “providing at least two cells” [104] on a “display screen” [18] wherein “each of the at least two cells is operable to be associated with a television channel and is operable to display, within the cell, video content being broadcast on the television channel”. As illustrated, the program/channel listings comprise “grouping . . . at least two cells into a region” wherein “in response to a user selection of the region . . .

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displaying a cell highlight” [108] “around a cell in the selected region” such that the “user [is allowed] to navigate the cell highlight to each of the cells in the selected region, wherein only the cell that is surrounded by the cell highlight is in focus” (Figure 5; Col 4, Line 44 – Col 5, Line 46). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combined references to utilize the program listing teachings of Matthews, III so as to “provide at least two cells on a display screen, wherein each of the at least two cells is operable to be associated with a television channel and is operable to display, within the cell, video content being broadcast on the television channel; . . . grouping the at least two cells into a region; displaying a region highlight that surrounds the cells in the region; allowing a user to navigate a region highlight to the region, wherein no cell highlight appears on the display while the user is navigating the region highlight; and in response to a user selection of the region surrounded by the region highlight; displaying a cell highlight around a cell in the selected region; allowing the user to navigate the cell highlight to each of the cells in the selected region, wherein only the cell that is surrounded by the cell highlight is in focus” for the purpose of taking advantage of the graphics-based nature of IT systems in association with the presentation of program guide services (Matthews, III: Col 1, Lines 61 – Col 2, Line 3). The combination of references is silent with respect to “notifying a user of the availability of interactive content” that the user is subsequently able to access.

In an analogous art pertaining to interactive television applications, Figures 5 and 6 of the Matthews, III et al. reference discloses “for each of the at least one of the cells that is associated with a television channel, displaying an indicator which notifies a user of the

availability of interactive content associated with the television channel associated with the cell” and “for a cell which an indicator is displayed and which is in focus, allowing a user to access the interactive content associated with the television channel associated with the cell” (Col 9, Line 1 – Col 10, Line 37; Col 10, Line 56 – Col 11, Line 21). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the electronic programming guide or ‘interactive application’ to further “display an indicator which notifies a user of the availability of interactive content associated with the television channel associated with the cells” and to further “allow a user to access the interactive content associated with the television channel associated with the cell” for the purpose of advantageously provide a means by which to integrate supplemental content within the program guide for easy access (Matthews, III et al.: Col 4, Lines 17-24 and 59-65).

Regarding claim 76, the Eldering et al. reference discloses a “system for accessing content through an interactive application” such as an EPG. As illustrated in Figure 2, the system comprises a “display screen” or television (Para. [0060]), a “communication link configured to access content” [202/232] (Para. [0052], [0053], and [0061]), and a “processor” [204] that controls the operation of the system (Para. [0053]). In particular, as illustrated in Figure 1, the “processor” is operable to ‘instruct the display screen to display’ an EPG comprising a region associated with advertisements [103/105/107] consisting of a number of ‘cells’ and a region corresponding to program/channel listings [101] (Para. [0032]). The reference teaches that the particular regions, as would be understood by persons of skill in the art of Web page design and implementation, are delineated by frames (Para. [0040]).

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Accordingly, the reference generally provides for an EPG comprising a number of regions (ex. advertising region [103/105/107] and program listing region [101]) delineated by frames, but is generally silent with respect to the particular composition and ability to navigate between regions.

In an analogous art related to interactive television and in particular problems associated with display interfaces, the IBM article discloses that it is desirable to “instruct [a] display screen to display a region highlight that surrounds . . . [a] region” of a web-page and to “allow [a] user to navigate a region highlight to the region, wherein no cell highlight appears on the display screen while the user is navigating the region highlight” given that the reference merely teaches the particular highlighting of a particular frame upon which has input focus. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Eldering et al. “processor” [204] to “instruct the display screen to display a region highlight that surrounds . . . [a] region” such as that associated with either the advertisements [103/105/107] or the program/channel listings [101] and to “allow [a] user to navigate a region highlight to the region, wherein no cell highlight appears on the display while the user is navigating the region highlight” for the purpose of providing feedback to the user as to which frame/region within the interface has input focus. Subsequently, the combined references provide for an electronic programming guide comprising a number of frames/regions in which upon navigating to a particular region a highlight border is provided around the frame that has focus in order to show the boundaries of the frame. The combination, however, is silent with respect to further details associated with the program/channel listings [101] as claimed.

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In an analogous art pertaining to interactive user interfaces and in particular electronic programming guides, the Matthews, III reference similarly discloses a “display screen” [18] and a “processor” [58] (Figure 2; Col 7, Line 7 – Col 8, Line 14). As illustrated in Figure 4, the “processor” [58] is configured to “instruct the display screen to display at least two cells” [104] “that are each operable to be associated with a television channel, wherein each of the cells is operable to display, within the cell, video content being broadcast on the television channel”. As illustrated, the program/channel listings comprise “group[ing] . . . at least two cells into a region” wherein “in response to a user selection of the region . . . displaying a cell highlight” [108] “around a cell in the selected region” such that the “user [is allowed] to navigate the cell highlight to each of the cells in the selected region, wherein only the cell that is surrounded by the cell highlight is in focus” (Figure 5; Col 4, Line 44 – Col 5, Line 46). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combined references to utilize the program listing teachings of Matthews, III such that the “processor [is] configured to instruct the display screen to display at least two cells that are each operable to be associated with a television channel, wherein each of the cells is operable to display, within the cell, video content being broadcast on the television channel; . . . group[ing] the at least two cells into a region; instruct[ing] the display screen to display a region highlight that surrounds the cells in the region; allow[ing] a user to navigate a region highlight to the region, wherein no cell highlight appears on the display while the user is navigating the region highlight; and in response to a user selection of the region surrounded by the region highlight; instruct[ing] the display screen to display a cell highlight around a cell in the selected region; [and] allow[ing]

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the user to navigate the cell highlight to each of the cells in the selected region, wherein only the cell that is surrounded by the cell highlight is in focus” for the purpose of taking advantage of the graphics-based nature of IT systems in association with the presentation of program guide services (Matthews, III: Col 1, Lines 61 – Col 2, Line 3). The combination of references is silent with respect to “notifying a user of the availability of interactive content” that the user is subsequently able to access.

In an analogous art pertaining to interactive television applications, Figures 5 and 6 of the Matthews, III et al. reference discloses a “processor” [92] that is “configured” such that “for each of the at least one of the cells that is associated with a television channel, [the display screen is] instructed . . . to display an indicator which notifies a user of the availability of interactive content associated with the television channel associated with the cell” and “for a cell which an indicator is displayed and which is in focus, [the user is] allow[ed] . . . to access the interactive content associated with the television channel associated with the cell” (Col 9, Line 1 – Col 10, Line 37; Col 10, Line 56 – Col 11, Line 21). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the Eldering “processor” [202] to further “display an indicator which notifies a user of the availability of interactive content associated with the television channel associated with the cells” and to further “allow a user to access the interactive content associated with the television channel associated with the cell” for the purpose of advantageously provide a means by which to integrate supplemental content within the program guide for easy access (Matthews, III et al.: Col 4, Lines 17-24 and 59-65).

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Claims 67 and 77 are rejected wherein the “indicator is displayed in at least one of: the cell having an associated television channel for which interactive content is available, and an area in close proximity to that cell” (Matthews, III et al.: Figure 5).

Claims 68 and 78 are rejected wherein “for each cell that is associated with a television channel and which is not in focus, displaying in the cell a graphical brandmark of the television channel associated with the cell; and if the cell in focus is associated with a television channel, displaying in the cell video content being broadcast on the television channel” (Matthews, III: Col 4, Lines 56-61; Col 5, Lines 23-36).

Claims 86 and 89 is rejected in light of the aforementioned combination of references wherein the “region” [101] comprises “at least one cell associated with a television channel” (Matthews, III: Figure 4; Col 4, Lines 44-55). Figure 1 of Eldering et al. further illustrates “providing a second region” or advertising region [103/105/107] that “includes the at least one cell associated with a non-television entity” or website derived advertisement (Para. [0046]).

Claims 87 and 90 are rejected in light of the aforementioned combination of references. As previously discussed, Figure 1 of Eldering et al. further “provides at least one advertisement cell” [103/105/107] “on the display screen, wherein the advertisement cell is distinct from the at least two cells” by virtue of their on-screen arrangement, content, etc.. The “at least one advertisement cell” is logically “grouped . . . into a second region” corresponding to a separate frame such that “[the user is] allowed . . . to navigate the region highlight to the second region” as taught by the IBM technical disclosure for the purpose of

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providing feedback to the user as to which frame/region (ex. program listing region or advertising region) within the interface has input focus.

6. Claims 69-71, 79-81, 88, and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering et al. (US Pub No. 2002/0026638 A1), in view of the "IBM Technical Disclosure Bulletin" (of record), in view of Matthews, III (US Pat No. 5,815,145), in view of Matthews, III et al. (US Pat No. 6,025,837), and in further view of Lawler et al. (US Pat No. 5,585,838).

In consideration of claims 69 and 79, the combined references are silent with respect to further "displaying an option indicator" as claimed. In an analogous art pertaining to interactive television applications, the Lawler et al. reference discloses "displaying an option indicator which notifies a user of at least one option corresponding to the television channel associated with the cell; and for a cell which is in focus, allowing a user to select one of the at the least one option" (Col 13, Line 53 – Col 14, Line 48). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined references so as to "display an option indicator" for the common knowledge advantage of providing a simplified means by which the user can identify desired programs and services and to perform actions related to those programs (Lawler et al.: Col 1, Lines 26-33).

Claims 70 and 80 are rejected wherein the "television channel is a video on demand channel, and wherein the at least one option includes at least one of . . . placing an order for a program from the video on demand channel" (Matthews, III: Col 9, Lines 26-49; Lawler et al.: Col 14, Lines 16-23; Col 16, Lines 35 – Col 17, Line 5).

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Claims 71 and 81 are rejected wherein the “at least one option includes at least one of: recording a current program on the television channel, [and] setting a reminder for a future program on the television channel” (Lawler et al.: Col 13, Line 53 – Col 14, Line 48).

In consideration of claims 88 and 91, “at least one of the . . . option indicator is a generic icon” such as element [138] which generically indicates that the user may ‘order’ a program. The icon is considered generic’ in so far as the same icon is utilized to indicate to the user that programs can be ordered in numerous screens (Figures 8 and 9).

7. Claims 72-75 and 82-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering et al. (US Pub No. 2002/0026638 A1), in view of the “IBM Technical Disclosure Bulletin” (of record), in view of Matthews, III (US Pat No. 5,815,145), in view of Matthews, III et al. (US Pat No. 6,025,837), and in further view of Goldschmidt Iki et al. (US Pat No. 6,295,646).

In consideration of claims 72 and 82, the combined references are unclear with respect to whether or not “at least one of the cells” such as those corresponding to the television program listings region [101] of Eldering are operable to display Web content “within the cell”. In an analogous art pertaining to interactive television applications, the Goldschmidt Iki et al. reference discloses a user interface wherein “at least one of the cells is operable to display Web content within the cell” in addition to cells displaying television content (Figure 6; Col 7, Lines 28-51). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined references such that “at least one of the cells is operable to display Web content within the cell” for the purpose of advantageously providing a user interface/programming guide which

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supports entertainment system data from a variety of sources (Goldschmidt Iki et al.: Col 1, Lines 15-36).

Claims 73 and 83 are rejected wherein “at least one of the cells is associated with a television channel and at least one of the cells is associated with a non-television entity”. (Goldschmidt Iki et al.: Col 7, Lines 40-51; Col 8, Line 66 – Col 9, Line 42).

Claims 74 and 84 are rejected wherein the method further comprise “receiving a signal indicating selection of the cell in focus; and if the cell in focus is associated with a television channel, displaying, in full screen on the display screen, video content being broadcast on the television channel” (Goldschmidt Iki et al.: Col 9, Lines 29-34).

Claims 75 and 85 are rejected wherein the system/method further “allows a user to disassociate a television channel from a cell; and allows a user to associate a television channel with a cell” in accordance with the user establishment of preferred entertainment sources (Goldschmidt Iki et al.: Col 7, Lines 40-46). Alternatively, the system/method “allows a user to disassociate a television channel from a cell; and allows a user to associate a television channel from a cell” in conjunction with the user scrolling through the listing of entries within the interface such that the first displayed cell would be associated a different channel if the user scrolled the listings as illustrated in Figure 6 of Matthews, III.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of

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claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Knudson et al. (WO 99/56466 A1) reference discloses a program guide system with advertisements.
- The Alexander et al. (WO 99/04561 A1) reference discloses a system and method for displaying and recording control interfaces.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Scott Beliveau
Primary Examiner
Art Unit 2623



SEB
October 11, 2006

Notice of References Cited	Application/Control No. 09/773,883	Applicant(s)/Patent Under Reexamination CARPENTER ET AL.	
	Examiner Scott Beliveau	Art Unit 2623	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2002/0026638	02-2002	Eldering et al.	725/42
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N	WO 9956466 A1 ✓	11-1999	World Intellect	KNUDSON et al.	
	O	WO 9904561 A1 ✓	01-1999	World Intellect	ALEXANDER et al.	
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

EVIDENCE APPENDIX C
COPY OF REPLY TO FINAL OFFICE ACTION
DATED JANUARY 18, 2007

DOCKET NO.

UV-180

CONFIRMATION NO.

7944

APPLICANTS

Kenneth F. Carpenter, Jr. et al.

APPLICATION NO.

09/773,883

FILED

January 18, 2007

RECEIPT IS HEREBY ACKNOWLEDGED OF THE
Transmittal Form (in duplicate); and Reply to Office Action.



DATED

January 18, 2007

FILED IN CONNECTION WITH THE ABOVE CASE.

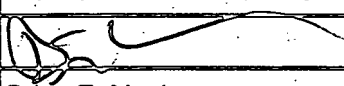
BEM: 003597-0180

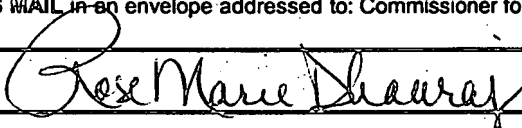
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/773,883
	Filing Date	January 31, 2001
	First Named Inventor	Kenneth F. Carpenter
	Art Unit	2623
	Examiner Name	Scott E. Beliveau
Total Number of Pages in This Submission	Attorney Docket Number	UV-180

ENCLOSURES (Check all that apply)				
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Postcard.		
<table border="1"><tr><td>Remarks</td></tr><tr><td>The Director is hereby authorized to charge payment of any additional filing fees or surcharges required under 37 C.F.R. § 1.16 and § 1.17, in connection with the paper(s) transmitted herewith, or credit any overpayment of same, to Deposit Account No. 06-1075, (Order No. 003597.0180). A duplicate copy of this transmittal letter is transmitted herewith.</td></tr></table>			Remarks	The Director is hereby authorized to charge payment of any additional filing fees or surcharges required under 37 C.F.R. § 1.16 and § 1.17, in connection with the paper(s) transmitted herewith, or credit any overpayment of same, to Deposit Account No. 06-1075, (Order No. 003597.0180). A duplicate copy of this transmittal letter is transmitted herewith.
Remarks				
The Director is hereby authorized to charge payment of any additional filing fees or surcharges required under 37 C.F.R. § 1.16 and § 1.17, in connection with the paper(s) transmitted herewith, or credit any overpayment of same, to Deposit Account No. 06-1075, (Order No. 003597.0180). A duplicate copy of this transmittal letter is transmitted herewith.				

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	FISH & NEAVE IP GROUP OF ROPES & GRAY		
Signature			
Printed name	Brian E. Mack		
Date	January 18, 2007	Reg. No.	57,189

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as EXPRESS MAIL in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	ROSE MARIE DHANRAJ	Date	January 18, 2007

UV-180

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Kenneth F. Carpenter, Jr. et al.
Application No.: 09/773,883 Confirmation No.: 7944
Filed : January 31, 2001
For : INTERACTIVE TELEVISION APPLICATION
WITH NAVIGABLE CELLS AND REGIONS
Art Unit : 2623
Examiner : Scott E. Beliveau

New York, New York 10020
January 18, 2007

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO OFFICE ACTION

Sir:

In reply to the Office Action dated October 18, 2006
(hereinafter "Office Action"), applicants request
reconsideration in view of the following remarks:

Remarks begin on page 2 of this paper.

REMARKS

I. Summary of Office Action

Claims 66-91 are pending in this application.

Claims 66-68, 76-78, 86, 87, 89, and 90 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Eldering et al. U.S. Patent Pub. No. 2002/0026638 (hereinafter "Eldering") in view of the "IBM Technical Disclosure Bulletin" (hereinafter "IBM Bulletin"), in further view of Matthews, III U.S. Patent No. 5,815,145 (hereinafter "Matthews I"), and in further view of Matthews, III et al. U.S. Patent No. 6,025,837 (hereinafter "Matthews II").

Claims 69-71, 79-81, 88, and 91 were rejected under 35 U.S.C. §103(a) as being unpatentable over Eldering, in view of the IBM Bulletin, in further view of Matthews I, in further view of Matthews II, and in further view of Lawler et al. U.S. Patent No. 5,585,838 (hereinafter "Lawler").

Claims 72-75 and 82-85 were rejected under 35 U.S.C. §103(a) as being unpatentable over Eldering, in view of the IBM Bulletin, in further view of Matthews I, in further view of Matthews II, and in further view of Goldschmidt Iki et al. U.S. Patent No. 6,295,645 (hereinafter "Goldschmidt").

The rejections of claims 66-91 under 35 U.S.C. §103(a) are respectfully traversed.

II. The Combination of Eldering, the IBM Bulletin, Matthews I, and Matthews II Fail to Show or Suggest All of Applicants' Claimed Features

Independent claims 66 and 76 are directed to a method and system for using an interactive application on a display screen to access content. At least two cells are provided on the display screen. Each of the at least two cells is operable to be associated with a television channel and to display, within the cell, video content being broadcast on the television channel. An indicator is displayed that notifies the user of the availability of interactive content associated with the television channel associated with the cell. The at least two cells are grouped into a region, and a region highlight is displayed that surrounds the cells in the region. A user is allowed to navigate the region highlight, wherein no cell highlight appears on the display while the user is navigating the region highlight. In response to a user selection of a region surrounded by the region highlight, a cell highlight is displayed around a cell in the selected region. The user is then allowed to navigate the cell highlight to each of the cells in the selected region, wherein only the cell that is surrounded by the cell highlight is in focus. Finally, the user is allowed to access the interactive content associated with the television channel for a cell for which an indicator is displayed and which is in focus.

The Examiner contends that the combination of Eldering, the IBM Bulletin, Matthews I, and Matthews II shows all of applicants' claimed features recited in independent claims 66 and 76. (See Office Action, pages 4-10). Applicants respectfully disagree. Although the IBM Bulletin refers to a border around the frame of a web page, and Matthews I shows cursor 108 around programming tile 102a (see Mathews I, FIG. 4), none of the references, alone or in combination, shows or suggests displaying a cell highlight around a cell in the selected region in response to a user selection of the region surrounded by the region highlight, as recited by applicants' independent claims.

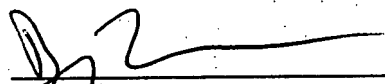
For example, a user of applicants' claimed invention may navigate between regions using a region highlight. While navigating between regions using the region highlight, no cell highlight appears on the display. Then, in response to a user selection of a highlighted region, a cell highlight is displayed around a cell in the selected region. The user may then navigate the cell highlight to other cells within the selected region. The Office Action, in combining the four references in a piecemeal fashion, has overlooked the claimed functionality of displaying a cell highlight around a cell in a selected region in response to a user selection of that region.

For at least the foregoing reason, applicants submit that independent claims 66 and 76 are allowable over Eldering, Matthews I, Matthews II, and the IBM Bulletin. Dependent claims 67-75 and 77-91, each of which includes all the limitations of its respective independent claim, are allowable for at least the same reason. Applicants respectfully request, therefore, that the rejection of claims 66-91 under 35 U.S.C. §103(a) be withdrawn.

III. Conclusion

Applicants respectfully submit that this application is in condition for allowance. Reconsideration and allowance of this application are respectfully requested.

Respectfully submitted,



Brian E. Mack
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New York, New York 10020-1105
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EVIDENCE APPENDIX D
COPY OF ADVISORY ACTION DATED FEBRUARY 7, 2007



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/773,883

01/31/2001

Kenneth F. Carpenter JR.

UV-180

7944

1473 7590 02/07/2007
FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

RECEIVED

FEB 12 2007

ROPES & GRAY LLP PATENT DEPT.
REFERRED TO SING TM
NOTED BY

EXAMINER

BELIVEAU, SCOTT E

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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02/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

File No: UV/180
Action Desc: Notice of Appeal / Admin. Action Resp.
Due Date: March 8, 2007
By: JB

Advisory Action
Before the Filing of an Appeal Brief

Application No.

09/773,883

Applicant(s)

CARPENTER ET AL.

Examiner

Scott Beliveau

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


Scott Beliveau
Primary Examiner
Art Unit: 2623

Continuation of 11. does NOT place the application in condition for allowance because: applicant's arguments having been fully considered are not persuasive. Applicant argues that the none of the references either alone or in combination suggest displaying a cell highlight around a cell in the selected region in response to a user selection of the region surrounded by the region highlight. The IBM Bulletin describes providing a border around a frame that has 'input focus'. Having 'input focus' is understood to mean that the particular area or frame will have subsequent user input directed to that area/frame. Therefore, a particular region or frame must initially be accessed or 'selected' and thereby 'highlighted' in order for subsequent user input to be processed for that frame as opposed to other frames. Figure 4 of Matthews (I) illustrates the particular display of program listings subsequent to activation which includes the display of a 'cell highlight around a cell' that operates in accordance with the user input (Col 4, Lines 62 - Col 5, Line 5). "A cell highlight" is displayed depending on the user's input (Col 5, Lines 6-22). Therefore, taken in combination, the references disclose displaying a cell highlight around a cell in the selected region in response to a user selection of a highlighted region as argued.

SEB

EVIDENCE APPENDIX E
COPY OF PRE-APPEAL BRIEF REQUEST FOR REVIEW
DATED APRIL 18, 2007

DOCKET NO. UV-180 (003597-0180)
CONFIRMATION NO. 7944

APPLICANTS Kenneth F. Carpenter, Jr.

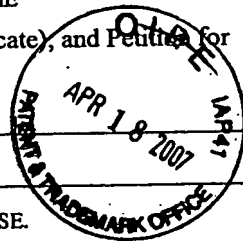
APPLICATION NO. 09/773,883 FILED January 31, 2001

RECEIPT IS HEREBY ACKNOWLEDGED OF THE
Pre-Appeal Brief Request for Review; Notice of Appeal (in duplicate), and Petition for
Extension of Time Under 37 CFR 1.136(a) (in duplicate).

DATED April 18, 2007

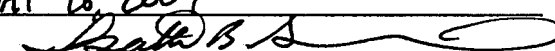
FILED IN CONNECTION WITH THE ABOVE CASE.

EXPRESS MAIL LABEL NO. EV930032559US COMMISSIONER FOR PATENTS
BM/odv 003597-0180



**NOTICE OF APPEAL FROM THE EXAMINER TO
THE BOARD OF PATENT APPEALS AND INTERFERENCES**Docket Number (Optional)
UV-180

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as **EXPRESS MAIL, Mailing Label No. EV930032559US** in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450"[37 CFR 1.8(a)]

on April 18, 2007
Signature 

Typed or printed

name Isatta B. Smith

In re Application of
Kenneth F. Carpenter, Jr.

Application Number
09/773,883

Filed
January 31, 2001

For INTERACTIVE TELEVISION APPLICATION WITH
NAVIGABLE CELLS AND REGIONS

Art Unit
2623

Examiner
Scott E. Beliveau

Applicant hereby **appeals** to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20 (b)(1))

\$500.00

- ☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ _____
- ☐ A check in the amount of the fee is enclosed,
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 06-1075, (Order No. 003597-0180). I have enclosed a duplicate copy of this sheet.
- ☒ A Pre-Appeal Brief Request for Review.
- ☒ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)
- ☒ attorney or agent of record.
Registration number 57,189
- ☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34. _____


Signature

Brian Mack

Typed or printed name

212-596-9000

Telephone number

April 18, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2006 <i>(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)</i>		Docket Number (Optional) UV-180 (003597-0180)	
Application Number 09/773,883		Filed January 31, 2001	
For INTERACTIVE TELEVISION APPLICATION WITH NAVIGABLE CELLS AND REGIONS			
Art Unit 2623		Examiner Scott E. Belliveau	

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

	<u>Fee</u>	<u>Small Entity Fee</u>	
<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$120	\$60	\$ _____
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$450	\$225	\$ _____
<input checked="" type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1020	\$510	\$ <u>1020.00</u>
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1590	\$795	\$ _____
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2160	\$1080	\$ _____

☐ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☒ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 06-1075 Order No. 003597-0180. I have enclosed a duplicate copy of this sheet.

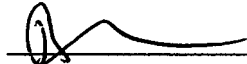
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the ☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☒ attorney or agent of record. Registration Number 57,189

☐ attorney or agent under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34. _____



 Brian Mack
 Typed or printed name

April 18, 2007

 Date
 212-596-9000

 Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PATENTS
UV-180

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Applicants : Kenneth F. Carpenter, Jr. et al.
Application No. : 09/773,883 Confirmation No. : 7944
Filed : January 31, 2001
For : INTERACTIVE TELEVISION APPLICATION
WITH NAVIGABLE CELLS AND REGIONS
Art Unit : 2623
Examiner : Scott E. Beliveau

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Pursuant to 1296 Off. Gaz. 2 (July 12, 2005), applicants request review of the rejection of claims 1-31 in the above-identified application. No amendments are being submitted with this Request. This Request is being filed with a Notice of Appeal.

Arguments begin on page 2 of this paper.

ARGUMENTS

I. Introduction

Claims 66-91 are pending in this application.

Claims 66-68, 76-78, 86, 87, 89, and 90 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Eldering et al. U.S. Patent Pub. No. 2002/0026638 (hereinafter "Eldering") in view of the "IBM Technical Disclosure Bulletin" (hereinafter "IBM Bulletin"), in further view of Matthews, III U.S. Patent No. 5,815,145 (hereinafter "Matthews I"), and in further view of Matthews, III et al. U.S. Patent No. 6,025,837 (hereinafter "Matthews II").

Claims 69-71, 79-81, 88, and 91 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Eldering in view of the IBM Bulletin, in further view of Matthews I, in further view of Matthews II, and in further view of Lawler et al. U.S. Patent No. 5,585,838 (hereinafter "Lawler").

Claims 72-75 and 82-85 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Eldering in view of the IBM Bulletin, in further view of Matthews I, in further view of Matthews II, and in further view of Goldschmidt Iki et al. U.S. Patent No. 6,295,645 (hereinafter "Goldschmidt").

II. Applicants' Reply to the 35 U.S.C. § 103(a) Rejections

Independent claims 66 and 76 are directed to a method and system for using an interactive application on a display screen to access content. At least two cells are provided on the display screen. Each of the at least two cells is operable to be associated with a television channel and to display, within the cell, video content being broadcast on the television channel. An indicator is displayed that notifies the user of the availability of interactive content associated with the television channel associated with the cell. The at least two cells are grouped into a region, and a region highlight is displayed that surrounds the cells in the region. A user is allowed to navigate the region highlight, wherein no cell highlight appears on the display while the user is navigating the region highlight. In response to a user selection of a region surrounded by the region highlight, a cell highlight is displayed around a cell in the selected region. The user is then allowed to navigate the cell highlight to each of the cells in the selected region, wherein only the cell that is surrounded by the cell highlight is in focus. Finally, the user is allowed to access the interactive content associated

with the television channel for a cell for which an indicator is displayed and which is in focus.

A. The Examiner's Reasons for Combining the References
In Fact Would Not Motivate One Skilled in the Art To Make
The Suggested Combination Because They Lack a Rational
Basis and Are Inapplicable to the Teachings of the References

Even assuming *arguendo* that the combination of Eldering, the IBM Bulletin, Matthews I, and Matthews II showed all of applicants' limitations recited in independent claims 66 and 76, the Office Action has still failed to meet its burden of establishing a *prima facie* case of obviousness because the motivations proffered in the Office Action lack any basis in fact and are inapplicable to the references.

The Office Action contends that it would have been obvious to modify Eldering to include the region highlight of the IBM Bulletin. *See* Office Action, page 5. The Office Action also contends that it would have been obvious to allow a user to navigate the newly added region highlight to a region in Eldering, wherein no cell highlight appears on the display while the user is navigating the region highlight. *See id.* The Office Action's purported motivation for making both of these modifications to Eldering is to "provid[e] feedback to the user as to which frame/region within the interface has input focus." *See* Office Action, p. 5. Applicants respectfully disagree and submit that the record is completely devoid of any reason why one skilled in the art would be motivated to modify Eldering in such a way as to add a region highlight or allow a user to navigate the newly added region highlight between regions.

Eldering merely states that different portions of the EPG may "comprise different frames in a frameset" (*Eldering*, ¶ 0040). Eldering is silent as to how a user navigates among the different windows within the EPG or even if the individual windows are selectable or navigable by the user. *See* Eldering, ¶¶ 0032, 0040-0044. Thus, the Examiner must initially modify Eldering—which the Examiner has not done—to make the windows navigable before the Examiner can even begin reasoning that a frame highlight is needed. But ignoring this fact, the Examiner's purported motivation of "providing feedback to the user as to which frame/region has input focus" is wholly inadequate to motivate one skilled in the art to navigate the Eldering EPG display by region using a region highlight. There are simply no navigable cells groupings in Eldering compatible with a region highlight. Each window is a single element. Eldering's discussion about frames at best puts each element within a different frame on a web page. There is no suggestion or teaching of multiple element frames. This is significant because, assuming a highlight were used within such an

embodiment, an element by element highlight would be used to provide focus, not a region highlight. In short, there is no need for a region highlight when there are no regions of multiple cells. The Examiner's motivation is patentably inapplicable here.

The Office Action's motivation to combine Eldering and the IBM Bulletin with Matthews I is equally deficient and unsupported by the references themselves. The Office Action merely contends that it would have been obvious to include the navigable region highlight of the Eldering/IBM Bulletin combination into the FIG. 4 display screen of Matthews I "for the purpose of taking advantage of the graphics-based nature of IT systems in association with the presentation of program guide services." See Office Action, p. 6. As discussed below, this motivation is far too conclusory to be sufficient as a matter of law. In addition, adding a region highlight to the FIG. 4 display screen of Matthews I is contrary to the very teachings of the Matthews I reference itself.

Matthews I approaches the problem of navigable regions in a completely different way—a way that negates the need for a region highlight. Namely, as shown in FIG. 6, a user in Matthews I may navigate a cursor within a programming tile strip (i.e., programming guide space 150 of FIG. 6) to cause "screen 98 to shift leftward in the programming guide space" (Matthews I, col. 10, ll. 11-25). Thus, screen 98 of FIG. 4 only displays one region (e.g., of six tiles) of a larger virtual display at a time—the region selected by the cursor in programming guide space 150. Since only one region is displayed in screen 98 at a time, there would be no reason for one skilled in the art to add a region highlight to navigate between regions in the display screen. Because Matthews I already provides a solution for navigating and selecting a grouping of programming tiles for display using the programming tile strip, the need for a region highlight is completely eliminated. Indeed, Matthews I would have to be completely redesigned to work with a region highlight.

Contrary to the Office Action's contention, applicants respectfully submit that there could be no possible motivation to include the region highlight from the Eldering/IBM Bulletin combination into screen 98 of Matthews I. The region highlight would serve no purpose nor add any functionality that does not already exist in Matthews I. Rather, applicants have recited a unique approach for grouping cells into regions and navigating between the regions using a region highlight in independent claims 66 and 76.

**B. The Examiner's Motivation to Combine the
 References Is Insufficient as a Matter of Law**

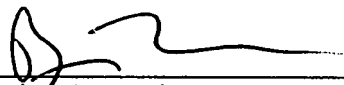
Applicants also submit that the motivation proffered by the Examiner for combining the references is insufficient as a matter of law. It is well-settled that in order to

sustain a rejection under 35 U.S.C. § 103, the Examiner must point to some "objective teaching" to combine the references. *See, e.g., In re Fine*, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). The Examiner's dubious motivation of "taking advantage of the graphics-based nature of IT systems" is overly broad and generic. The mere fact that a system may be graphics-based does not specifically teach one skilled in the art to modify the references, especially not in the way the Examiner proposes. "Broad conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence'" of a motivation to modify the references. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999), abrogated on other grounds by *In re Gartside*, 53 USPQ2d 1769 (Fed. Cir. 2000). Rather, if the 35 U.S.C. § 103 rejection is to be maintained, the Examiner must provide some specific teaching in the references themselves or in the knowledge of one skilled in the art why one would be motivated to modify or combine the references. *See generally* MPEP § 2143. As shown above, one skilled in the art would have no motivation to combine any of the references in the way proffered by the Examiner. Accordingly, applicants request that the rejection under 35 U.S.C. § 103 be withdrawn.

III. Conclusion

For the foregoing reasons, applicants submit that independent claims 66 and 76 are allowable over the prior art of record. Dependent claims 67-75 and 77-91, which contain all the limitations of independent claims 66 and 76, respectively, are allowable for at least the same reasons. Reconsideration and allowance are respectfully requested.

Respectfully submitted,



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Tel.: (212) 596-9000
Fax : (212) 596-9090

EVIDENCE APPENDIX F
COPY OF ELDERING ET AL. U.S. PATENT APP. PUB. NO.
2002/0026638 A1

EVIDENCE APPENDIX G
COPY OF "IBM TECHNICAL DISCLOSURE BULLETIN"

769
REF--U

TDB-ACC-NO: NN971189

DISCLOSURE TITLE: Focus Highlight for World Wide Web Frames

PUBLICATION-DATA: IBM Technical Disclosure Bulletin, November 1997,
US

VOLUME NUMBER: 40

ISSUE NUMBER: 11

PAGE NUMBER: 89 - 90

PUBLICATION-DATE: November 1, 1997 (19971101)

CROSS REFERENCE: 0018-8689-40-11-89

DISCLOSURE TEXT:

Disclosed is a method to provide a visual indicator of input
focus in web pages using frames.

Frames are a commonly used design element on web pages.

While

frames are useful in many respects, they present a number of
problems

for users. The most serious problem is that the user has no
feedback

to show which frame has input focus. If, for example, the user
invokes

the "Print frame" option from the browser's menu, they may well
print

a

frame different than the one they intended. Most web users have
encountered problems related to this and frames are widely
criticized

among the design community.

A secondary problem is that most
browsers
do not show frame borders and the user, thus, has no clear
feedback

that

the page is composed of frames or what the boundaries of each
frame
are.

A solution to this problem is to provide a focus indication
for

the frame which has input focus. One form of focus indication
which
is

consistent with conventional Graphical User Interface (GUI) applications is to provide a highlight border around the frame which has focus.

This would indicate to the user that the frame has focus and show the boundaries of that frame. This indicator could be provided by the browser.

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EVIDENCE APPENDIX H
COPY OF MATTHEWS III U.S. PATENT NO. 5,815,145

EVIDENCE APPENDIX I
COPY OF MATTHEWS III U.S. PATENT NO. 6,025,837

(x) Related Proceedings Appendix

None.